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September 12, 2006

33865-1/D01

UNITED STATES PATENT AND  
TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

I hereby certify that the original of this document and the enclosures referred to therein are being deposited with the United States Postal Service, "Express Mail Post Office to Addressee" service, under 37 C.F.R. § 1.10 on September 12, 2006, and addressed to United States Patent and Trademark Office, Trademark Trial and Appeal Board, P.O. Box 1451, Alexandria, Virginia 22313-1451.

*Sandra V. Edge*  
Sandra V. Edge

"Express Mail" Mailing Label No.: EV 601118563

Re: Application of: Gitzit, Inc.  
Mark: **GITZIT**  
Serial No.: 78/703,563  
Filed: August 30, 2005  
Subject: Answer to Notice of Opposition



09-13-2006

U.S. Patent & TMO/TM Mail Rcpt Dt. #32

Dear Sir or Madam:

Enclosed please find the following with regard to the above-referenced application:

- An original and two copies of a Notice of Opposition; and
- A check in the amount of \$300.00.

So that we may have a timely record of this filing, please date-stamp the enclosed stamped, self-addressed postcard and deposit it in the U.S. mail.

Please direct any questions regarding the enclosed to my attention.

Sincerely,

*PKH*

Peter K. Hahn  
of  
LUCE, FORWARD, HAMILTON & SCRIPPS LLP

PKH/sve  
Enclosures

cc: J.L. Pennington  
Ed Arledge, Esq.  
3744230.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re:

Applicant's Mark: GITZIT  
Serial No.: 78/703,563  
Filed: August 30, 2005  
Published: In the Official Gazette on  
May 16, 2006

Opposition No. \_\_\_\_\_

J.L. Pennington,

Opposer,

vs.

GITZIT, Inc.,

Applicant.

## NOTICE OF OPPOSITION

Opposer: J.L. Pennington  
Citizenship: An individual and a citizen of the United States  
Address: 8620 South Eastern Avenue  
Las Vegas, Nevada 89123

09/19/2006 KESBONS 00000011 78703563

01 FC:6402

300.00 OP

## CERTIFICATE OF MAILING

I hereby certify that the original of this document and the enclosures referred to therein are being deposited with the United States Postal Service, "Express Mail Post Office to Addressee" service, under 37 C.F.R. § 1.10 on June 28, 2000, and addressed to The Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451

Dated: September 12, 2006

  
Sandra V. Edge

"Express Mail Mailing Label.:

EV 601118563 US

1 J.L. Pennington (hereinafter referred to as "Opposer") believes that he will be damaged by  
2 the registration of the mark shown in Serial No. 78/703,563 (the "Application"), and hereby  
3 opposes same.

4 J.L. Pennington is an individual whose address is 8620 South Eastern Avenue, Las Vegas,  
5 Nevada 89123. The grounds for the opposition are as follows:

6 1. Upon information and belief, GITZIT, Inc. ("Applicant") is a Washington  
7 corporation, having a place of business at P.O. Box 3039, 667 Red Rock Road, St. George, Utah  
8 84771.

9 2. Opposer and his predecessor in interest have continuously used the mark GITZIT  
10 on fishing lures since at least as early as 1980.

11 3. Upon information and belief, Applicant made no use of GITZIT ("the Applicant's  
12 Mark") prior to use of the mark GITZIT by Opposer and his predecessors in interest.

13 4. Notwithstanding Opposer's prior rights in and to the mark GITZIT, Applicant is  
14 seeking to register GITZIT as its trademark for fishing lures.

15 5. The use and registration by Applicant of the mark GITZIT is without Opposer's  
16 consent and is likely to cause confusion in the minds of consumers as to the source, affiliation,  
17 endorsement and/or association between Applicant, Opposer and their respective goods.

18 6. Upon information and belief, neither Applicant nor any predecessor of Applicant  
19 made any actual use in commerce or constructive use of the mark GITZIT on the goods listed in  
20 the Application, which would be sufficient for Applicant to establish trademark rights superior to  
21 those of Opposer.

22 7. In the alternative, upon information and belief, Applicant has abandoned the mark  
23 GITZIT, is making no actual or constructive use of the Applicant's Mark, has not made any bona  
24 fide use of the Applicant's Mark, and/or has no bona fide intent to use the mark in the future.

25 8. Registration of the mark GITZIT would provide Applicant with prima facie  
26 exclusive rights therein and would interfere with Opposer's rights in the mark.

9. Opposer has the right to continue using the mark GITZIT in connection with its goods without interference by Applicant and without a likelihood of confusion, mistake or deception.

WHEREFORE, Opposer believes that it will be damaged by the registration of GITZIT to Applicant and prays that the registration be denied.

The filing fee of \$300.00 is submitted concurrently herewith.

Dated September 12, 2006

Respectfully submitted,

By

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PETER K. HAHN

Attorney for Opposer

Registration No. 34,833

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